

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

AIG PROPERTY CASUALTY CO.,  
Plaintiff,

-against-

WHIRLPOOL CORP.,  
Defendant.

**USDC SDNY**  
**DOCUMENT**  
**ELECTRONICALLY FILED**  
**DOC #:** \_\_\_\_\_  
**DATE FILED:** 5/6/2024

24-CV-03066 (MMG)

**ORDER OF DISMISSAL**

MARGARET M. GARNETT, United States District Judge:

“[S]ubject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power.” *Curley v. Brignoli, Curley & Roberts Assocs.*, 915 F.2d 81, 83 (2d Cir. 1990). Consistent with that proposition, Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

In this case, federal subject matter jurisdiction is premised on diversity of citizenship, pursuant to 28 U.S.C. § 1332 (“Section 1332”). Section 1332, however, requires “complete” diversity of citizenship, and it is well established that diversity “is not complete if any plaintiff is a citizen of the same state as any defendant.” *St. Paul Fire & Marine Ins. Co. v. Universal Builders Supply*, 409 F.3d 73, 80 (2d Cir. 2005). A review of the notice of removal and the complaint in this action reveals that such is the case here, as the Plaintiff and Defendant are both citizens of Delaware. Dkt. No. 1 ¶¶ 6–8. The Court therefore lacks subject matter jurisdiction over this action.

Accordingly, the complaint is hereby REMANDED to New York Supreme Court without prejudice for lack of subject matter jurisdiction. Any pending motions are moot and any conferences are canceled. The Clerk of Court is directed to close the case.

Dated: May 6, 2024  
New York, New York

SO ORDERED.

  
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MARGARET M. GARNETT  
United States District Judge